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CIVIL ACTION NO. 4:22-cv-1457

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an official or individual capacity for any act under color of such office[.]” This lawsuit is therefore removed under 28 U.S.C. § 1442(a)(1).

3. In this case, Plaintiff is seeking money damages from the United States due to the alleged action (i.e. negligence) of an employee of the United States. The plaintiff’s cause of action sounds in tort and is thus controlled by the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680.

4. Under the Federal Tort Claims Act, “. . . the district courts . . . shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages . . . for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.” 28 U.S. C. § 1346(b)(1). The district courts have original jurisdiction over such “federal question” cases: that is, those cases “arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331; *Heimann v. The National Elevator Industry Pension Fund*, 187 F.3d 493, 499 (5th Cir. 1999). Therefore, the federal government can only be sued in federal court. *See In re Supreme Beef Processors, Inc.*, 468 F.3d 248, 252 (5th Cir. 2006); *Lopez v. Sentrillon Corp.*, 749 F.3d 347, 351 (5th Cir. 2014).

5. Written notice of the filing of this pleading has been served on all parties in this lawsuit and a copy of this pleading has been filed with the Clerk of the State Court. A copy of the Notice to State Court of Filing of Notice of Removal is attached to this pleading.

6. In accordance with Local Rule 81, USDC/SDTX, a List of Counsel of Record and an Index of Filings are attached to this pleading.

7. In accordance with Local Rule 81, USDC/SDTX, all requested state court items are attached to this pleading.

Therefore, the federal defendant requests that the above-captioned action, Cause No. 202218592, pending in the 11th District Court in Harris County, Texas be removed to this Court.

Respectfully submitted,

Jennifer B. Lowery
United States Attorney

By: /s/ Catina Haynes Perry
Catina Haynes Perry
Assistant United States Attorney
Texas Bar No. 24055638
Federal ID No. 577869
1000 Louisiana, Suite 2300
Houston, Texas 77002
Telephone: (713) 567-9354
Facsimile: (713) 718-3303
Email: catina.perry@usdoj.gov

Attorney for Defendant.

Certificate of Service

I certify that on May 6, 2022, a copy of the Notice of Removal was served on the following attorneys of record by certified mail, return receipt requested, and/or the email address, and/or through the electronic filing system:

Colin W. Jacobson

Mail:

HUSAIN LAW & ASSOCIATES, P.C.
5858 Westheimer, Ste 400
Houston, TX 77057

Email: eserve@hlalawfirm.com

Attorney for Plaintiff

/s/ Catina Haynes Perry

Catina Haynes Perry
Assistant United States Attorney